MESSAGE

OF

ANDREW JOHNSON,

Governor of the State of Tennessee,

TO

BOTH HOUSES OF THE GENERAL ASSEMBLY,

OCTOBER , 1855.

NASHVILLE:
G. C. TORBETT AND COMPANY.
1855.

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MESSAGE.

EXECUTIVE DEPARTMENT,
NASHVILLE, OCTOBER ——, 1855.

llow Citizens of the Senate and

House of Representatives:

The organic law and long-established custom in this State rquires the Governor, from time to time, to submit to the conseration of both Houses of the General Assembly, such measres and suggestions as he may deem expedient and proper. I vould, therefore, in the first place, most respectfully call your ttention to the liabilities of the State.

The actual indebtedness of the State at this time is as fol lws:

lve and a quarter per cent. Bonds issued for Stock in Internal Improvement Co's -	$ 227,416 66
Five per cent. bonds issued for stock in Internal Improvement Companies - -	1,824,440
Six per cent. bonds issued for capital in the Bank of Tennessee - - -	1,000,000
Six per cent. bonds issued for building State Capitol - - - - -	691,000
For stock in the Union Bank - - -	250,000
Amounting to	$3,992,856 66

In addition to the above actual indebtedness, the State is liable for bonds loaned and endorsed, as follows:

To the East Tenn. and Georgia Railroad	-	$ 870,00
" Tennessee and Alabama	" - -	300,00
" Memphis and Ohio	" - -	340,00
" East Tenn. and Virginia	" - -	569,00
" Memphis and Charleston	" - -	740,00
" McMinnville and Manchester	" - -	300,00
" Mississippi and Tenn.	" - - -	98,00
" Mississippi and Dyersburg Plank Road	-	25,00
" Manskers Creek and Springfield Turnpike (endorsed)	- - - -	10,00
" Nashville and Chattanooga Railroad (endorsed)		1,500,00
Amounting to		$4,752,00

Making the whole liabilities of the State for Bonds issued for Stock, loaned and endorsed to Internal Improvement Companies, amount to eight million seven hundred and forty-four thousand eight hundred and fifty-six dollars and sixty-six cents ($8,744,856 66.)

It will devolve on you to provide for the payment of one hundred and twenty-five thousand dollars, ($125,000) of the Bonds which were issued for stock in the Union Bank, falling due First of January, 1858, and fifty thousand dollars ($50,00) Bonds issued for building the State Capitol, falling due first of April of the same year. It is for the Legislature to determine whether these Bonds shall be paid by imposing additional taxes on the people or out of the Stocks owned by the State.

I lay before you for examination the original cost and present estimated value of the State Stocks, and also the value of the taxable property and number of taxable polls, made out by the Comptroller of the Treasury:

"STOCK OWNED BY THE STATE.

Stock.	Original Cost.	Estimat'd pres. val.
Bank of Tennessee,	$1,000,000	$1,000,000
Union Bank,	650,000	650,000
East Tenn. & Georgia Railroad,	650,000	300,000
Franklin and Columbia Turnpike,	75,950	56,925
Lebanon and Nashville "	80,000	48,266
Nensville, "	47,000	11,750
Nshville and Charlotte "	30,000	20,000
Lebanon and Sparta "	85,000	21,170
Columbia Central "	139,000	21,170
Nshville and Kentucky "	50,000	12,500
Crksville and Russelville "	37,500	9,000
Columbia, Pulaski & Elkton "	126,600	12,233
Nshville and Murfreesboro "	66,666 66	30,530
Glatin and Cumberland "	6,000	5,283
Glatin "	130,000	26,000
Cnberland and Stone's river "	119,000	20,000
Total value. - - -	3,292,716 66	2,244,827

The above Turnpike Companies pay 6 per cent. on the esti-nted value.

Total value of Taxable Property,	$219,011,047 81
" number of taxable Polls,	100,011
State tax on $219,011,047 81 at ten cents on the hundred dollars, - - -	219,011 04
" " " 100,011 polls at fifteen "	15,001 65"

At the last session of the Legislature, an act was passed di-ting the Governor and Comptroller to invest the dividends sing from the stock in the Union and Planter's Banks in the per cent. bonds. We have received on account of said bonds e hundred and fifty-five thousand two hundred and forty-nine dlars and thirty-six cents; and have contracted with the Bank Tennessee for the whole amount in Bonds.

As it becomes your duty to appoint a Committee to examine te accounts of the Comptroller and Treasurer, I would there-fe suggest that you direct the same Committee to examine rd report as to the amount received and disbursed under the ct of 1853–4, Chapter 44.

For the details of the State debt and the true condition of te Treasury, I most respectfully refer you to the report which ll be made by the Comptroller of the Treasury.

BANKS.

The condition of the Bank of Tennessee will be fully set forth and made known in a report which will be made and submitted to the General Assembly, by the President and Directors of that institution, at an early day. It will be seen from a careful examination of the report that the principal Bank and branches have been conducted with great efficiency in their ordinary banking transactions, and especially so in collecting and securing a large portion of what is called the suspended debt. More of this debt has been collected and secured in the last two years than at any former period.

In regard to this institution, I still adhere to my former opinion, as submitted to the last Legislature, that the principal Bank and its branches ought to be put into gradual liquidation, and that the present is an auspicious time for such gradual liquidation, giving ample and reasonable time to all persons who are indebted to the institution to make arrangements for paying the amount they may owe the principal Bank and its branches. The process of winding up the institution at the present time can be made so gradual and easy as not to embarrass the indebted portion of the community in the smallest degree.

A number of Banks have gone into operation under a law passed by the General Assembly of 1851–2, and others no doubt will soon commence. In addition to this, the last Legislature incorporated seven Stock Banks, which will more than supply the vacuum created by the withdrawal or the winding up of the Bank of Tennessee, and furnish all the banking facilities needed by the whole commercial and business portion of the country. As the capital of the Bank is withdrawn from circulation, it can be profitably invested in the Bonds of the State, thereby again making its way into the general circulation, and at the same time creating a home market for the bonds of the State equal to the entire assets of the Bank. The Bonds are bearing an interest of six per cent. per annum, which will in the end yield a greater profit to the State, making it the safest and most judicious investment that can be made with the Common School and other funds, which now constitute the capital of the Bank of Tennessee, and which is under the control of the Legislature.

If the State can in any reasonable time dispose of the stock owned in the Union and Planters' Bank upon good and safe terms, and all other stocks owned by the State in Turnpikes or Railroads, it would be equally wise, safe and

dious to make a like investment with the proceeds of such stocks in the six per cent. bonds of the State. The number of internal Improvement works which have been commenced by the various companies, and which are entitled to aid by a from the State, and a number of others that in all probability will be commenced, which will require the issuance of a large amount of State Bonds, amounting to many millions of dollars, will absorb the entire capital of the State Bank and the proceeds of all the stocks owned by the State, if they are invested in the bonds of the State as already indicated.

The Free Banking law, as it is commonly called, requires revision and amendment, and should be so modified as to require all applicants for banking privileges under it to deposite, as a greater security to note holders, with the Comptroller of the Treasury, twenty-five per cent. more in Bonds than they receive notes in exchange for circulation. The note holders are entitled to this additional security to meet any reasonable depreciation which may take place in the value and sale of the Bonds of the State, when thrown into market for sale. And as a further protection to the community, there should be a law passed prohibiting the circulation of any Bank note of a less denomination than five dollars, in the State. We have seen within the last few years gold and silver driven almost entirely out of circulation for all the ordinary business transactions of the country, by the excessive issue of small notes by the various Banks throughout the State. The passage of such a law would in a short time restore to circulation, for all ordinary purposes, gold and silver, which cannot depreciate in the hands of the small and unsuspecting dealers, as is often the case with bank notes, by the depreciation of small notes or the breaking of banks. The necessity of the passage of such a law must be obvious to all, and it is wholly unnecessary for me to make any argument to the Legislature or to the country in its favor.

There is one other suggestion that I will make in regard to the Free Banking law: The law should be so amended as to fix definitely the rates at which notes should be discounted by all persons banking under that law, thereby making the discounts equal and uniform in banking operations throughout the State.

TAX ON MERCHANTS.

In my message to the last Legislature, the attention of that body was called to the subject of merchants' taxes, and as

no action was then taken upon it, I again submit that po.io
of my message to your consideration :

" There is some complaint with the mercantile interest, in n
sequence of the unequal and discriminating operation of u
revenue laws regulating merchants' license. The complai i
not without some foundation and good cause on their prt
The law, as it now stands, requires all wholesale and re
dealers in merchandise in this State to first pay into e
Treasury of the State one-half of one per cent. on the inv
cost of all goods vended by them. The main cause of c
plaint, as I understand it, is, that in the first place, the wh
sale merchant, by the revenue law, is required to first y
into the treasury the half of one per cent., or fifty cents n
the hundred dollars. After the tax is paid by him into e
treasury, the retail merchant then purchases the same go
of him and takes them to another establishment, in or out
the county where purchased, as the case may be, and ve
them again ; for which he is required to pay one-half of e
per cent., or fifty cents on the hundred dollars, into the tr
sury ; which is one per cent. paid to the State for the go
thus sold. By this process it will be perceived that the St
lays a double tax on the goods purchased from the wholes
dealer within the limits of the State. The business retail dea
has no difficulty in understanding the operation, and finds
to his interest to go beyond the limits of the State to make l
purchases, and thereby save the one half of one per cent.
the purchase of his goods, or fifty cents on every hundr
dollars. It must be obvious to all business men, that if t
wholesale dealer is required first to pay the tax into the tre
sury, that when the retail merchant buys of him he must p
it back, and then when he makes sale of the goods, he mu
pay a like amount into the treasury ; which is practically con
pelling the country merchant to pay a double tax to the Stat
on the same goods ; which, as a matter of course, makes it hi
interest to go beyond the limits of the State to make his pu
chases, and become the customer of the foreign wholesal
dealer, instead of the wholesale dealer at home ; and to tha
extent operates against our own commercial cities and com
mercial men.

" It is most manifest to my mind that the practical effect o
the revenue law, as it now stands, regulating merchants' li
cense, is to discriminate against the merchant at home and i
favor of the one abroad. The subject is, therefore, submitted
to your consideration, with the hope that the law will be s
modified as to place the mercantile interest of the State on a

ual footing and in a field of fair competition with a like in-
rest of the other States of the Union".

NASHVILLE AND CHATTANOOGA RAILROAD.

By the sixth section of an act passed February the 8th, 1854,
apter 31, it was made the duty of the Governor to endorse
d guarantee the Bonds of the Nashville and Chattanooga
ailroad Company in an amount not exceeding six hundred and
ty thousand dollars. Immediately after the passage of this
w, the President of the company presented six hundred and
ty thousand dollars in Bonds of the company, which Bonds
ere endorsed and guaranteed as the law prescribed. The
onds were then delivered to the President of the company, he
ecuting his receipt for them. Sometime after this the Pres-
ent and Mr. Edwin H. Ewing made application to the Gov-
nor for the endorsement and guarantee of ninety-five thous-
nd dollars more in bonds of the said company. The reason
ven for this application was that the bonds had been de-
royed to the amount of ninety-five thousand dollars, they
aving been through mistake burned for other Bonds, and
resented as proof of the fact a certificate of the cashier of
ne Bank of the Republic of New York, together with the
agments or scraps of forty three Bonds, or that portion of
nem which contained the coupons; the body of the Bonds
ontaining the signature of the President of the Company and
ne endorsement of the Governor, being entirely gone. The
agments or scraps of the bonds, presented as material proof
f the fact of the bonds having been destroyed, were so dis-
olored and charred by the action of the fire, that they afford-
d no proof that the Governor had ever seen or endorsed
nem, leaving no evidence before him but the certificate of the
ashier of the Bank of the Republic of New York, where the
onds had been burned through mistake. In this connection,
owever, it is due to state that there is no class of evidence
nat could have been presented proving the loss or destruction
f the bonds that would have induced the Governor, as the law
ow stands, to endorse and guarantee any additional number
f bonds on account of their loss or destruction, there being
o law authorizing it to be done. The bonds had been once
ndorsed and guaranteed and delivered to the President of said
ompany. This was deemed a complete execution of the law, lea-
ing the Governor after its execution no control or discretion
ver the subject whatever. There is no law conferring power
n the executive where bonds have been misplaced or de-

stroyed, upon application to him, to issue other bonds in th ir place, whether they have been endorsed or loaned, held by companies or individuals. The exercise of such a powe on the part of the Governor, in the absence of law, would be setting a dangerous precedent, which might open the d r wide to fraud and speculation by all unscrupulous persons i o whose hands the bonds of the State might fall, which had b n loaned to companies to aid in works of internal improveme s, or those that had been endorsed or guaranteed for the sa e purpose. The second or third holder of bonds which had b n transferred by any internal improvement company, in e event of the loss or destruction of the bonds in his han s, would have the same right to apply to the Governor for e issuance of new bonds in consequence of the loss or destr - tion of the old bond, so transferred, that the company had wo first received the bonds from the State. It would be unsafe d dangerous to confer any such power on the Executive, there y leaving it to his discretion to determine the nature and char - ter of proof which would authorize him to issue bonds in l cases where they might be represented as being lost or - stroyed. All questions of this character should be provid l for by direct legislation, and not left to executive discreti .

Taking this view of the subject, the Governor declined endorse and guarantee the ninety-five bonds already referr l to. In reference to the actual destruction of the bonds in t present case, the Governor had no doubt of its havi occurred as represented by the President of the company a Edwin H. Ewing, Esq., and at the time the application w made for the endorsement and guarantee of the bonds, he f more than anxious to accommodate them and the compan , but declined doing so for the reasons already given. Th whole subject is therefore submitted for your considerati and action, and will be disposed of as you may hereaft direct.

PUBLIC ROADS.

I would also call your attention to my former recommend on this subject:

"Our whole system of public roads is exceedingly defectiv perhaps more so than in any other State in the Union, impo ing the burden of keeping it up upon that portion of our fello citizens least able to bear it, and who have the least use for after it is kept up. Many persons are compelled to work o the public roads many days in the year, who have not th

ne to spare to do so, without pay, and the necessities of hose families need the proceeds of their entire labor for their ıpport; while on the other hand there are many who are exmpt by law from working on the public roads, who are either ble physically to work them, or pecuniarily to pay for having done, and who derive the greatest benefit from good roads hen they are made, by the enhanced value good roads impart) their property, and by increasing the comforts and facilities (traveling over them. In view of changing or modifying our resent system, I most respectfully call your attention to the ystem of keeping up public roads in the States of Ohio and 'ennsyvania, where property and other taxes are levied for the urpose of keeping up the public roads and highways, and hereby carrying out the principle, that the individual who deives the greatest benefit from having them kept up, and in pro-)er condition for the traveling public, shall pay correspondingy for the benefits thus conferred. All persons should contri-)ute to the support of the government under which they live, n proportion to the protection they may receive from it. Our)resent road system, it must be conceded by all, operates most ınjustly and unequally upon the great mass of the people, and ought to be changed. I therefore recommend to your con-ideration the propriety of so changing or modifying the pre-ent system as to conform it to the requirements of the public udgment and wants of the country, and that it be done during he present session of the Legislature."

NATIONAL HOMESTEAD.

This important measure, by a large majority, has passed the popular branch of our national Legislature twice in succession, and was lost both times in the Senate, which is conclusive that the popular will demands the passage of such a law. I therefore call the attention of both branches of the Legislature to my recommendation upon this subject, which was made to the last Legislature:

"I feel that I cannot conclude this message without urging upon your consideration the importance and propriety of instructing our Senators in the Congress of the United States, and requesting our Representatives to use all reasonable exertion to procure the passage of a bill granting to every head of a family, who is a citizen of the United States, a 'Homestead' of one hundred and sixty acres of land, out of the public domain, upon condition of settlement and cultivation for a number of years. This is a measure of no ordinary consider-

ation to the American people, and the correctness of its poli has been settled in the public judgment, and it would have be the law long before this time, had the popular will been carri out by the Congress of the United States. I therefore ho that you will take such action as will reflect the popular se timent of the sovereign people of this State, and thereby co tribute the weight of your influence to the consummation this great measure."

JUDICIARY.

I would most respectfully call your attention to my vie upon this subject as submitted to the last Legislature. I al transmit for examination a copy of the Bill referred to in m message :

" The true foundation of our Judiciary is to be found in th Bill of Rights, which was adopted by the sovereign people i the year 1796, and was, in the year 1834, re-affirmed. In th 17th section, they have declared in the most emphatic ma ner, ' that all courts shall be open, and every man for an injur done him, in his lands, goods, person or reputation, shall hav remedy by due course of law, and right and justice adminis tered without sale, denial or delay.' ' Right and justice' i to be ' administered without sale, denial or delay'—this i laid down as the basis, as the foundation of our whole sys tem of jurisprudence ; and it is imperative on the legislature in the organization of our courts, to conform them to th principles herein laid down. To a correct understanding o the kind of courts to be established, we should first determin what is meant by the terms ' right and justice,' as used in th bill of rights. The most approved authors define the tern *right:* ' Conformity to human laws, or other human standar of truth, propriety or justice.' ' *Justice*—the constant an perpetual disposition to render every man his due,' &c. I this connection we might consider the meaning of *equity* also In an enlarged and legal view, ' Equity, in its true and genuine meaning, is the soul and spirit of the law.' In this, ' equity is made synonymous with justice.' Right, justice and equity, according to common sense, and the best authorities, mean the same thing. When it comes to establishing a court or a tri- bunal, or it may be called by any other name, which is intend- ed as a standard by which the precise difference can be deter- mined betwcen the contending parties, it is imperative on the legislature to establish the standard which will accom- plish the great end, as designed in the bill of rights, and if it

were possible to so organize our courts, that when parties came into them to have their differences adjusted, for the court and jury to ascertain what is the precise equity between the parties, and then to determine that as the law of the case, 'equity being the soul and spirit of the law'—in other words, making the equity of the case, *the law of the case*. Taking the bill of rights as the foundation for our courts, the inquiry very naturally arises as to whether our courts, as now established, under the sixth section, first article of the constitution, are in conformity with the principles herein laid down. This article says: 'The judicial power of the State shall be vested in one supreme court, in such inferior courts as the legislature shall ordain and establish.' This provision of the constitution would seem to give great latitude to the legislature in the organization of the courts. But the exercise of this power by the legislature must be in strict conformity with the principles laid down in the bill of rights. The bill of rights being the better part of the constitution, is paramount.

"In all questions of apparent conflict between the bill of rights and the constitution, they should be reconciled and made to harmonize, if possible; but where there is a final repugnance the constitution must give way, it bearing the same relation to the bill of rights that a law does to the constitution. Hence, in the organization of the courts, the legislature has no authority under the sixth article, to depart from this great and fundamental principle as laid down in the bill of rights, or the better part of the constitution.

"Under the constitution of 1796, judges of the supreme and inferior courts were appointed by the legislature to office during good behavior. The legislature conferred upon the courts chancery and law jurisdiction, which was exercised by them for thirty-eight years, or till 1835. The people, after making the experiment, became well satisfied that our judicial system was exceedingly defective, falling far short of carrying out the great principles, as contemplated in the bill of rights.

"In 1834, the people again, in convention, so changed the constitution as to make it more in conformity with the great idea of right and justice, by changing the tenure of all judicial officers from that of life to a term of years, and at the same time referring back many other elections to themselves which had been given up in the constitution of 1796.

"These changes in the constitution have been effected, in part, for the purpose of conforming the courts of the country, in their whole structure, to the wants and necessities of the people. There has been evident dissatisfaction with the courts of

the country for a number of years past. The people find fau with the judges, complain of lawyers, and sometimes condem jurors, affording conclusive evidence that there is a wrong some where: Delay, expense and perplexity of mind on the part the litigants—confidence in the courts much impaired in th public estimation. Under our present system, an individua goes into what is termed a court of law, to obtain justice i some matter of controversy, and after much time is spent an expense incurred, he comes out of law with a long bill c costs to pay; and if he complains of the proceeding, he is tol that his case was a good one, but he was unfortunate in bring ing his action in the wrong court; that his remedy is not in law but in chancery. Another individual brings his suit in a cour of chancery, and after a like delay of time and trouble in filin bills and hearing answers, he is turned out of court with a lon bill of cost and charges to pay, and he is consoled in the sam way by telling him his case is a good one, but his remedy i not in chancery, but in a cout of law, and from a court of law to a court of chancery, until, in the end, if the end ever comes the substance of the parties is, in many instances, consumed and the gainer of the suit is frequently the loser, and the un fortunate party goes into immediate bankruptcy. This is th manner in which law and equity is administered under ou present system of jurisprudence, which, in fact, is the grea cause of complaint of the parties who go into our courts to ob tain justice, and a want of confidence on the part of the peo ple in the courts of law and chancery.

"Upon this subject I shall take high ground, and assume tha the courts can be so organized, that law and equity can be ad ministered by the same court, by the same judge and jury, an at the same time, and that, too, without 'sale, denial or de lay.' Let the courts of law and chancery be blended or con verted into one court, (it is not material by what name you call it)—or, in other words, let the law and equity of the case be heard by the court and jury at the same time—let the par ties, if necessary, be examined in open court—let all the res traints and barriers be removed—all false issues and collatera questions be thrown aside, and the cause tried upon the naked merits involved, and thereby administer 'right and justice' to the contending parties, and let them go hence without de lay.

"I feel well assured that the people, throughout the State, ex pect legislative action upon this subject before the close of your session. This is a most propitious time for bringing about the change in our judiciary, as indicated, the people

ving removed all constitutional difficulties that were in the ay, by the adoption of the recent amendments to the constiution. There is now a bill before your honorable body, enitled a bill, '*To abridge and simplify the pleadings, practice d proceedings in the courts of justice in this State*,' which will, passed into a law, accomplish much in conforming the practe in the courts to the requirements of the bill of rights and e wants of the people. In recommending this bill to your vorable consideration, or some one very similar in its provions, I am not recommending a new and untried experiment, t one which has been tried and approved by many of our ster States. It will and can succeed with us as it has with em, if the experiment is fully and fairly made, and will, no oubt, give general satisfaction here, as it has there, by symlifying, cheapening and shortening the process by which litiants may obtain 'right and justice.'

"That the bill referred to has been prepared by its originator ith great care and much labor, is manifest to all who will ive it a careful examination; and it is believed, after passing he legislative ordeal, will be so improved as more closely to pproximate the intentions and design of those who framed he constitution. The leading principles of the measure now ecommended to your favorable consideration, have been adocated by me since my first entrance into public life, in the ear 1835; and my reflection and observation, together with the uccessful experiment which has been made in other States of he Union, have tended to confirm me in the opinion that it ought to be adopted in this State, and that, too, before the adournment of the present legislature."

AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.

"I will most respectfully call the attention of the General Assembly to the fifth article of the Constitution of the United States, which prescribes the mode and manner of amendment to that instrument, and, also, to three propositions to amend the Constitution of the United States, which are appended to, and made a part of this message, which is respectfully submitted for consideration and action by the General Assembly. In submitting this subject, I shall make no long or labored argument to the legislature, or the country, to prove the importance and necessity of adding these three amendments to the Constitution of the United States. All who are in favor of popularizing our free institutions as far as may be practicable, and

bringing the general government nearer to the people, will re ceive and treat them as self-evident propositions.

I will conclude, by adding, that they were the doctrines o Jefferson, of Jackson, Macon, and a number of other state men and patriots, whose opinions are at all times entitled t the respect and consideration of the American people."

Since this recommendation was made to the last legisla ture, I have become more thoroughly convinced in my ow mind of the importance of making the proposed amendment to the Constitution of the United States. The last two pop ular elections in this State show the importance of electin United States Senators at the ballot-box, instead of electin them by the Legislature. The popular will of the State, a reflected through the ballot-box, has twice in succession de monstrated most conclusively that the Legislature does no reflect the will of the people in the election of Senators, but on the contrary, has elected Senators to the Senate of the United States who stand opposed to the public judgment, a twice recorded by the sovereign people of this State.

The great importance of amending the Constitution of the United States, so as to bring the election of President and Vice President of the United States directly before the peo ple, as proposed in the amendment as hereunto appended is becoming more and more manifest by every day's experi ence. In the next election of President and Vice President it is highly probable that there will be three or more candidates and, in that event, the chances are, that the people of the several States will not have the privilege of choosing the President and Vice President through the electoral Colleges, no one of the candidates receiving a majority of all the elec toral votes, which will cause the election to be transferred from the electoral College to the United States House of Rep resentatives, where the choice will be made by States, without regard to the electoral vote; which, in all probability, will result, as it did in 1824, by foisting men into office, in utter disregard of the popular will. The proposed amendment to the Constitution would remove all apprehension and difficulty on this account, and cause the election to be made by the electoral College—some one of the candidates receiving a ma jority of all the electoral votes.

JOINT RESOLUTION,

...posing Amendments to the Constitution of the United States.

...ONSTITUTION OF THE UNITED STATES—ARTICLE 5TH.

Of Amendments.

"...ongress, whenever two-thirds of both Houses shall deem ...ecessary, shall propose amendments to this Constitution, ...e application of the Legislatures of two-thirds of the ...eral States shall call a convention for proposing amend...ents, which, in either case, shall be valid to all intents and ...poses, as part of this Constitution, when ratified by the ...slatures of three-fourths of the several States, or by con...entions in three fourths thereof, as the one or the other ...de of ratification may be proposed by Congress; provided ...at no amendment which may be made prior to the year ...thousand eight hundred and eight, shall in any manner ...ect the first and fourth clauses in the ninth section of the ...st article; and that no State, without its consent, shall be ...prived of its equal suffrage in the Senate."

JOINT RESOLUTION,

...roposing amendments to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the ...ited States of America, in Congress assembled, two-thirds of ...h Houses concurring, That the following amendments to ...h Constitution of the United States be proposed to the Leg...atures of the several States, which, when ratified by the

Legislatures of three-fourths of the States, shall be val
all intents and purposes as part of the constitution.

That hereafter, the President and Vice President of the
ted States shall be chosen by the people of the respe
States, in the manner following: Each State shall be div
by the legislature thereof, into districts, equal in number t
whole number of Senators and Representatives to which
State may be entitled in the Congress of the United St
the said districts to be composed of contiguous territory
to contain, as nearly as may be, an equal number of pe
entitled to be represented under the Constitution, and
laid off, for the time, immediately after the ratification o
amendment, and afterwards, at the session of the legisl
next ensuing the apportionment of representatives by
Congress of the United States; that on the first Thursd
August, in the year eighteen hundred and fifty-six, and o
same day every fourth year thereafter, the citizens of
State who possess the qualifications requisite for electors o
most numerous branch of the State legislatures, shall
within their respective districts, and vote for a President
Vice President of the United States, one of whom at least
not be an inhabitant of the same State with themselves; an
person receiving the greatest number of votes for Presi
and the one receiving the greatest number of votes for
President in each district, shall be holden to have received
vote; which fact shall be immediately certified by the Go
nor of the State, to each of the Senators in Congress from
State, and to the President of the Senate and the Speak
the House of Representatives. The Congress of the Un
States shall be in session on the second Monday in Octobe
the year eighteen hundred and fifty-six, and on the same
every fourth year thereafter; and the President of the Sen
in the presence of the Senate and House of Representati
shall open all the certificates, and the votes shall the
counted. The person having the greatest number of vote
President, shall be President, if such number be equal to a
jority of the whole number of votes given; but if no pe
have such majority, then a second election shall be held on
first Thursday in the month of December then next ensu
between the persons having the two highest numbers for
office of President; which second election shall be conduc
the result certified, and the votes counted, in the same man
as in the first; and the person having the greatest numbe
votes for President, shall be President. But, if two or m
persons shall have received the greatest, and an equal num

otes, at the second election, then the person who shall a: received the greatest nvmber of votes in the greatest ıber of States, shall be President. The person having the ıtest number of votes for Vice President, at the first elec- o, shall be Vice President, if such number be equal to a ma- ıy of the whole number of votes given; and if no person ıe such a majority, then a second election shall take place eveen the persons having the two highest numbers, on the a e day that the second election is held for President; and the eson having the highest number of votes for Vice President hll be Vice President. But if there should happen to be an cality of votes between the persons so voted for at the sec- n election, then the person having the greatest number of tes in the greatest number of States, shall be Vice President. B; when a second election shall be necessary in the case of Ve President, and not necessary in the case of President, tn the Senate shall choose a Vice President from the persons ving the two highest numbers in the first election, as is now scribed in the constitution.

Sec. 2. *And be it further resolved*, That article one, section dee, be amended by striking out the word "legislature," and inserting in lieu thereof the following words, viz: "persons qalified to vote for members of the most numerous branch of t: Legislature," so as to make the third section of said article vien ratified by three-fourths of the States, read as follows, t-wit:

The Senate of the United States shall be composed of two Snators from each State, chosen by the persons qualified to vte for the members of the most numerous branch of the lgislature thereof, for six years, and each Senator shall have ce vote.

Sec. 3. *And be it further resolved*, That article three, section ne, be amended by striking out the words "good behavior," id inserting the following words, viz: "the term of twelve ears." And further, that said article and section be amended y adding the following thereto, viz: "and it shall be the duty f the President of the United States, within twelve months fter the ratification of this amendment by three-fourths of all ne States as provided by the Constitution of the United tates, to divide the whole number of judges as near as may e practicable, into three classes. The seats of the first class nall be vacated at the expiration of the fourth year from such lassification; of the second class, at the expiration of the ighth year; and of the third class, at the expiration of the

twelfth year, so that one-third may be chosen every fou year thereafter."

The article, as amended, will read as follows:

ARTICLE III.

SECTION 1. The judicial power of the United States shall vested in one Supreme Court, and such inferior courts as t Congress, from time to time, may ordain and establish. Tl judges, both of the supreme and inferior courts, shall hold the offices during the term of twelve years, and shall, at stat times, receive for their services, a compensation, which sh not be diminished during their continuance in office. And shall be the duty of the President of the United States, withi twelve months after the ratification of this amendment b three-fourths of all the States as provided by the Constitutio of the United States, to divide the whole number of judges, a near as may be practicable, into three classes. The seats o the judges of the first class shall be vacated at the expiratio of the fourth year from such classification; of the second clas at the expiration of the eighth year; and of the third clas at the expiration of the twelfth year: so that one-third may b chosen every fourth year thereafter."

"This is merely submitted as one plan of amendment, to ac complish the contemplated change in the constitution of th United States. Any other plan more perfect, and more in con formity with the whole structure of the Government, will b equally acceptable. It is expected that the amendments wil be put in the most perfect form possible that can be devised by the exercise of your better judgment."

WEIGHTS AND MEASURES.

By a joint resolution of the General Assembly, adopted March 3d, 1854, the Governor was authorized to appoint a suitable person as superintendent of weights and measures. In compliance with this resolution, Mr. John Herrigus has been appointed superintendant to take charge of the weights and measures, as furnished by the Federal Government, under a resolution passed June 14th, 1836. Since the apointment of the superintendent the weights and measures have been received, and are now under his control, and by him have been deposited in one of the rooms of the Capitol, set apart for that purpose by the commissioners. The

weights and measures were all received in good order, and are now subject to the inspection of both branches of the Legislature. The resolution authorizing the appointment of superintendent of weights and measures made no provison for any compensation for the the time and labor nccessary for taking the proper care of the weights and measures, which are now in his possession. It cannot be expected that the superintendent can lose his time and labor without some pay. The resolution also authorized the Governor to have made, under the direction of the superintendent, a set of standard weights and measures for each county in the State. This portion of the resolution, so far, has not been carried out by the Governor. Believing, as he did, that, the cost would be much greater to procure a set of standard weights and measures for each county in the State, than the Legislature was aware of at the time the resolution passed. The cost of a set of standard weights and measures, such as would be suitable for the respective counties, from the most reliable sources of information, will not cost much less than two hundred dollars per set, which will make the aggregate cost near sixteen thousand dollars. Notwithstanding the aggregate cost may seem to be high, I am still of the opinion that sound policy and the best interest of the State requires a law to be passed making the standard of weights and measures uniform throughout the State, and that each county in the State ought to be furnished with a set of standard weights and measures for that purpose; and unless the Legislature repeal the resolution, the Governor will, at an early day, proceed, as authorized, to have each county furnished with a set of standard weights and measures, as authorized by law.

PENITENTIARY.

Upon this subject, my general views have undergone no change since the sitting of the last Legislature; and I would most respectfully call your attention to the suggestions and recommendations then made in my message to that body.

"This institution has, so far, failed in all the leading objects of its creation. The confinement of persons within the prison house or prison walls of a penitentiary, with the view of reforming them in their morol character, has been proven by all experience to be a great error, and it is not now contended for as a reforming institution by any one who has become at all familiar with the subject. There is not one in every thousand convicts whose moral condition is improved by

such imprisonment; but, on the contrary, most of them, i
all, are made worse than they were before, and become
confirmed in crime.

"Upon the subject of convicts becoming reformed by
tentiary imprisonment and association, Dr. John S. Yo
former Secretary of State, in an able and elaborate re
made on the 15th of September, 1845, to the Commissione
Public Buildings, and by them submitted to the Legisla
used the following language: 'I am entirely skeptical or
subject of reforming convicts by teaching them mecha
trades; little or no good results from it. When a *convict* le
the prison, he lays down his *cap*, and with it his *trade*.
looks back upon both as the *badges* of his disgrace, and
companions of his imprisonment; he aims to something
which he considers better than his trade, or returns to the
commission of crime. His trade, in most instances, as I
lieve, serves to better qualify the *villain* without reforming
man. Those who would attempt the moral reformation of
felon, must employ other means. They must bear in m
that three-fourths of those stained with crime can neither r
nor write. The mind must be cultivated in order to pro
those genial influences which are calculated to remove vic
inclinations and base propensities, and give place to pr
sensibilities and corrected feelings, from which altered in
tions and virtuous actions must spring.'

"The trial, conviction and sentence by the court of person
the penitentiary for violation of the laws, has had no restra
ing influence whatever on immorality, and carries little or
terror to the mind of the evil doer. The announcement in
court-house yard that such a person has been sentenced fo
many years imprisonment, is received with no alarm, but,
the contrary, with great indifference; and it is the frequent
mark that it is better for the individual who has just been s
tenced to so many years' confinement—it will be far bet
for him. He will, while there, be enabled to learn a go
trade, and will live better there than he ever did befo
The sheriff then prepares with his guards and starts with
convict for the penitentiary, making rather the impression,
he leaves, upon the mind of many spectators, that the prison
has done well in obtaining a travelling trip of pleasure and
money-making business for the sheriff and his escort, and
in the end be made one of the mechanics of the country.
fine, on these two points, it will be readily perceived the pe
itentiary reforms no one after he is confined within its wal

the sentence of the court, and confinement together, deters ne from a violation of the laws of the land.

n the next place, the system has fallen far below the exes incurred in the erection of the establishment, and the ual cost of carrying it on, up to the present time. Upon a e examination of the items properly chargeable to the institon, after giving it full credit for all that it is entitled to, e will still be found a deficit of not less than one hundred usand dollars—probably much more. I have obtained sufent data from Mr. Love, the principal book-keeper, who appeared very accommodating, and much disposed to af. every facility in his power to remove all difficulty in get- at the true financial condition of the institution, together n a report recently made by the Comptroller to the Senate, wing how much has been paid out of the treasury for the veyance of convicts to the penitentiary, to satisfy my mind t the State has incurred a heavy loss by the penitentiary. It l take but little investigation of this subject to satisfy any erning mind that the penitentiary exerts no beneficial ral influence on society, in or out of the penitentiary, and t it is now, and has been, an incubus on the treasury, and most likely continue so, unless the whole establishment dergoes a thorough change.

'While the institution has failed in all the leading objects its creation, the manner in which it has been conducted s been made to operate injuriously upon the mechanical erest of the country. It has been made practically a *State chanic institute*, fostered and sustained by the treasury of e State, and brought into direct competition with the mecanics of the country to the extent of its entire operation. he conditions upon which persons are admitted into this *tate mechanic institute* are very discriminating and invidious their character. Before the candidate can obtain admission the high privilege of being employed in this institution, at y one of the branches of business carried on there, he must st commit the horid crime of murder, arson, larceny, rape, some other one of the offences violative of law. He must en stand a trial at some of our courts of justice, and then ceive a certificate from the presiding judge that these facts e all true, and, in addition to this, he must be accompanied y the high sheriff of the county and his retinue to the *State lechanic Institute*. Having arrived, his credentials are preented, and such other evidence as may be required, that he is fit and worthy candidate, having possed through the or-

deal necessary and proper to his qualification for adm
He is then received by the proprietor of the institut
safely conducted to the stone mason's, sculptor's, or
other department, and there begins his new vocation
ducing the rough and unpolished marble to shape and fa
The hands that are yet crimson with the blood of the
fending, are made to ply the mallet and chisel, as did
rates, the Grecian philosopher and statesman—perhaps, t
the course of his servitude, with the same guilty hand,
grave upon the tomb of the departed and illustrious dea
lines which are intended to indicate to the inquiring
their many virtues and exalted worth. And so, also,
all the other departments that are carried on in this
tution: there might be similar illustrations made in refe
to tailors, shoemakers, hatters, blacksmiths, wagon-ma
&c., &c.

"The State, by the establishment of this institution, an
passage of laws to sustain it, gathers from every count
the State all the incorrigible offenders who are known to
law, and after collecting them within the walls of the p
tentiary, embarks in all the branches of mechanism, and op
enters the field of competition with the mechanics of
country. The mechanics outside of the penitentiary ar
quired, by all the obligations of good citizens, in peace
well as in war, to submit to taxation to sustain the gov
ment under which they may live, and at the same time c
pete with the State in their own branches of business.
policy of the State, in carrying on the branches of mech
ism, and the employment of all the felons of the countr
them, has a direct tendency to degrade the mechanics of
country as a body. Felon and mechanic, crime and
chanism, from their close association, become correspond
terms in the public mind. The felons, after having ser
out their time, are turned loose upon the country, to mix w
the mechanics as best they may, and perchance to beco
inmates of their families, and companions in their shops.
it right that this description of our population should be thro
upon, and associated with, the honest and industrious mecha
ics of the State, eitheir in person or profession? There
an instinctive repugnance in the bosoms of all honorable m
and it is reduced to practice by nearly all those who ha
charge of our cemeteries, by excluding the felon from bei
associated with us even in the grave. If it is degrading
be associated with a felon after we are dead, it must be mu
more so to be associated with him while we are living.

"In conclusion upon this subject, I must be permitted to ake one earnest appeal, and that is, for the legislature to so ·ect the future management of the affairs of the penitenry, by their legislation, as to protect this large and respectle portion of our fellow-citizens from this degrading assoation and competition, by excluding, as far as possible, all e branches of mechanism from the penitentiary".

Since the sitting of the last Legislature, the penitentiary s met with a serious accident, and a very heavy loss, by e. On the 29th of March last, about 3 o'clock in the morng, the prison was discovered to be on fire in the north-east rner of the buildings; the flames spread with great rapidity both directions, until all the inside buildings were nearly nsumed, embracing the eastern end of the main front building, hich contained one-half of the cells for the confinement of nvicts at night. The most energetic efforts, as I am reliably lvised, were made by the keeper and other officers connectl with the prison, as well as some of the fire companies of is city, to arrest the devouring element, but, from the great arcity of water, and other means necessary in such an emerency, were found to be wholly unavailing. The prison was t on fire by means of a slow match, which had been conructed by two of the convicts the day before and deposited y them in the north-east corner of the building, a short time oforc they were taken by their manager to their cells for conement in the evening. The fire, which proceeded from this ow match and which communicated to the building, was not iscovered until 3 o'clock the next morning, as before stated. t an early hour after the buildings were consumed and lying a pile of smoking ruins, the inspectors of the penitentiary, ogether with the Governor, had a consultation in reference to he most efficient steps necessary to be taken under the existng circumstances. The inside buildings were all burned own, or nearly so; half of the cells destroyed in the east end f the main building; tools of every description consumed, or o spoiled as to make them unfit for use. The convicts, two hunlred and thirty-seven in number, were divided into different ompanies and were marched and counter-marched about in the ard, for the purpose of preventing mutiny or an outbreak—ll of them without employment. With this state of facts efore them, the Inspectors and the Governor at once determined that it would be best, in view of safety and economy, to proeed, without delay, to repair the buildings so that the convicts ould be employed profitably, and made more secure at night. They, therefore, concluded to borrow a sufficient amount of

money from the various banks of this city, upon their ov credit and responsibility, to refit and repair the prison in su manner as might be considered absolutely necessary. Th course was deemed by the Governor the most efficient st that could be taken, because it dispensed with the necessity convening the Legislature in extraordinary session, whi would cause great delay before anything practicable could done, leaving the whole institution in a chaotic and unsafe co dition. The Inspectors, by taking this course, have done that the Legislature could have practically done in extra se sion, and by so doing have saved the expense of an extra sessi of the Legislature, which would have been much greater th the entire amount necessary to repair the penitentiary.

The amount of money borrowed by the Inspectors from t various banks in this city, upon their own responsibility, a which has been applied to the refitting and repairing of t penitentiary, is twenty thousand dollars. This sum, it is b lieved, has been profitably and economically applied to t purposes for which it was borrowed. A statement of the e tire expense, giving all the items in detail, will be furnished l the Inspectors for your examination. For a more minute a detailed account of this whole affair, I refer you to the repo of the Inspectors, which will be submitted to both branch of the Legislature, in a few days.

This heavy responsibility has been incurred by the Inspe tors, and, by so doing, there has been saved to the State ma thousands of dollars; it is, therefore, expected that the Legi lature will take prompt and efficient action upon this subje and relieve the Inspectors from the heavy responsibility whi they have incurred for the refitting and repairing of the Sta prison.

AGRICULTURAL BUREAU.

The Legislature, at its last session, passed an act to establi a State Agricultural Bureau, with county and district societi subordinate thereto, &c. By this act, the Governor of t State was constituted President *ex-officio* of the Bureau. The B reau was organized, according to law, on the 20th day of Apr 1854. Full details of its action will be laid before you by t Secretary of the Bureau. From his report you will see th county societies have been chartered in seventeen counties; d vision Fairs were, last year, held in the Eastern and Midd Divisions of the State, and by the Sumner County Society; a that a new and beneficial interest has been awakened on t

subject of Agricultural improvements. Division Fairs will, this year, be held in each division of the State, and the Biennial State Fair is now in progress, near Nashville, under your own immediate inspection. The Agricultural interest has always been, and will probably long continue to be, the leading interest of Tennessee. It is wise and proper that it should be fostered and encouraged by the Legislature, by all reasonable and legitimate means. I am of opinion that the law of 1854 was a wise and salutary step in the progress of Agricultural and Mechanical improvement and reform. Some slight modifications of the details of the law have been found necessary, not conflicting with its general scope and plan, to render it efficient in its practical operations. A Committee of the Bureau, under its Biennial meeting on the second Monday in October, will suggest such modifications as may be thought advisable; and I doubt not that such suggestions will receive your careful consideration. Nature has been prodigal in her gifts to our State, and the representatives of the people can render no service of greater value to their constituents than by affording judicious encouragement to associations having for their object the developement of the agricultural and mineral wealth of the State, and stimulating the mechanical skill and industry of its citizens. When our people learn that the necessity for labor is a blessing, rather than a curse that; "he who causes two blades of grass to grow, where but one grew before, is a greater public benefactor than he who conquers armies;' and then honor, fame, and fortune may be as certainly earned in the workshop of the artisan, as in the offices of the learned professions, and as freely accorded by the public sense to the former as to the latter, then we shall have lived down an obstacle in the way of State progress, as absurd as it is injurious.

In bringing this communication to a close, I cannot forbear expressing with you, and, I hope, the whole country, heartfelt gratulations that all the elements of prosperity, designed to make a people great, contented and happy, continue to exist in our favored land. Every branch of industry has been amply rewarded. Our fields have teemed with rich and abundant crops, yielding plenty of all that is needful for man and beast. Our various works of internal improvement are steadily and constantly advancing by the timely and judicious aid of the State, developing, our hitherto hidden and latent resources and bearing off to the markets of the world, at cheap rates, the mechanical, agricultural and other products of the country. Education has also received an impulse by legislation which, it is hoped, will be continued, and carried out, and cause our State ulti-

mately to take a position upon this subject not inferior
that of any State in the Union. Under a beneficent and ov
ruling Providence, we are still permitted to enjoy that sac
and greatest of all privileges, relating to man in social
civil and religious liberty, making this one of the freest and h
piest forms of government on the earth's broad surface. An
ficient and pure administration of the laws, by all the depa
ments of the government, Executive, Judicial and Legislati
together with a short session of the Legislature, and t
enactment of necessary, wise and wholesome laws, will al
add to the many blessings which have been bestowed up
our favored people, and will meet with their hearty approv
irrespective of parties, throughout the State.

ANDREW JOHNSON.